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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,746	03/19/2005	Meong-Gun Song	53850-10100	6244
23337 7590 07/07/2009 HOLME ROBERTS & OWEN LLP 1700 LINCOLN STREET, SUITE 4100 DENVER, CO 80203				
EXAMINER MILLER, CHERYL L				
ART UNIT 3738		PAPER NUMBER		
NOTIFICATION DATE 07/07/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO\_Mail@hro.com

### Office Action Summary

**Application No.**

10/508,746

**Applicant(s)**

SONG, MEONG-GUN

**Examiner**

CHERYL MILLER

**Art Unit**

3738

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-7,10,12,13,15-18 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,10,12,13,15-18 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 4-7, 10, 12-13, and 15-18 have been considered but are moot in view of the new ground(s) of rejection. Applicant has greatly broadened the claims necessitating a new rejection.

### ***Claim Rejections - 35 USC § 101***

Claims 24-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims positively recite portions of the body (placed on an outside surface of the wall, placed outside of the sinotubular junction). It is suggested to incorporate adapted to or capable language into the claim such that parts of the body are not positively recited as portions of the apparatus.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 6, 7, 12, 13, 16, 17, 18, and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Lansac (US 2005/0065597 A1, cited previously). Lansac discloses a discontinuous stabilizing device for the aortic annulus (2; fig.2) and a continuous stabilizing device (1; fig.1) for the sinotubular junction and a method of implanting the devices at such locations (see fig.10, 12). Discontinuous device (2) is thinner in regions where only sutures are

present (3, 4). The discontinuous device has vertical marks (end surfaces of 2) with an extra margin (sutures 3, 4) of at least 2 mm (inherently must be larger than 2 mm in order to be capable of knotting sutures together). Lansac discloses the devices to be made of synthetic fiber (P0015). No artificial graft connects the two devices. Additionally continuous (21) and discontinuous (25) devices are disclosed that possess the claimed capability.

Claims 1, 5, 7, 10, 13, 15, 18, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Duran (US 2007/00016290 A1). See figure 9 and respective portions of the specification. Duran discloses a discontinuous stabilizing device (suture 17; discontinuous, one length tied together) for the aortic annulus and a continuous stabilizing device (ring stent 28) for the sinotubular junction and a method of implanting the devices at such locations (see fig.8). Duran discloses the continuous device (28) to have three markers (20). Duran discloses the devices to be made of synthetic fiber or biocompatible material (P0057, P0063). Additionally continuous (27) and discontinuous (18) devices are disclosed that possess the claimed capability.

Claims 1, 4, 7, 22, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Chevillon et al. (US 6,511,506 B1, cited previously). Chevillon discloses a discontinuous device (29) capable of use at an aortic annulus and a continuous device (stent 5a or foam 169) capable of placement at a sinotubular junction. Chevillon's discontinuous device has a thinned area (area of 33 in between wire frame 31). Chevillon does not disclose a graft connecting the discontinuous and continuous devices (they are separate distinct components, thus not integral to the graft). Chevillon discloses additional continuous and discontinuous devices (29 and 5d or 169 at other end).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHERYL MILLER whose telephone number is (571)272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached at 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cheryl Miller/  
Examiner, Art Unit 3738

/Corrine M McDermott/  
Supervisory Patent Examiner, Art Unit 3738